

clf\smith-nco(genesis)\pleadings\complaint

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

TAMARA SMITH  
1740 Georges Lane  
Philadelphia, PA 19131

Plaintiff,

vs.

CIVIL ACTION NO.

NCO FINANCIAL SYSTEMS, INC  
507 Prudential Road  
Horsham, PA 19044

and

GENESIS FINANCIAL SOLUTIONS, INC.  
8405 Southwest Nimbus Ave  
Beaverton, OR 97008

Defendants.

**COMPLAINT**

**I. INTRODUCTION**

1. This is an action for damages brought by a consumer pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 (‘FDCPA’).

2. The FDCPA prohibits collectors from engaging in deceptive and unfair practices in the collection of consumer debt.

3. Defendants are subject to strict liability for sending a collection letter which violates the provisions of the FDCPA.

**II. JURISDICTION**

4. Subject matter jurisdiction of this Court arises under 15 U.S.C. § 1692k, actionable through 28 U.S.C. §§ 1331, 1337.

### **III. PARTIES**

5. Plaintiff is Tamara Smith (‘Plaintiff’ or ‘Smith’), a consumer who resides in Philadelphia, PA at the address captioned.

6. Defendant, NCO Financial Systems, Inc. (‘NCO’) is a Pennsylvania corporation with its principal place of business located at 507 Prudential Road, Horsham, PA.

7. Defendant, Genesis Financial Solutions, Inc. (‘Genesis’) is an Oregon corporation with its principal place of business in Beaverton, OR as captioned above.

8. The principal purpose of both Defendants is the collection of consumer debts alleged to be due another, or the bulk purchase of consumer debt when such is believed to be in default.

9. Both Defendants regularly use the mail and telephone to attempt to collect consumer debts acquired when in default or alleged to be due another.

10. Defendants are each ‘debt collectors’ as that term is defined in the FDCPA, 15 U.S.C. §1692a(6).

11. NCO, a debt collector, acted here on behalf of Genesis, a debt collector.

### **IV. STATEMENT OF CLAIM**

12. On or about January 23, 2008, NCO sent a collection notice to Plaintiff in connection with a consumer account alleged due. A copy of that collection notice is appended hereto as Exhibit ‘A’ (redacted for privacy per local rule).

13. The January 23 collection notice sought to collect a debt allegedly due to Genesis Financial Solutions. Genesis is a debt collector who hired NCO, a debt collector.

14. In the envelope with the January 23 collection notice was the ‘Genesis Financial Solutions, Inc. Privacy Notice’. The Genesis Privacy Notice is appended hereto as Exhibit ‘B’.

15. The Genesis Privacy Notice mailed by NCO contains the following statement in pertinent part:

**Information We Collect**

We collect non-public personal information about you from the following sources:

...

- From employers and others to verify information you have given to us.

16. The FDCPA forbids a debt collector from discussing a consumer's debt with any third parties. For that reason, defendants may not collect non-public personal information about the consumer from employers and others. 15 U.S.C. § 1692c(b).

17. The statement that defendants collect such information from employers and others is misleading and deceptive. It misleads the consumer into believing that third parties, such as her boss, co-workers, or others may be contacted and asked to provide information concerning the consumer, when the FDCPA forbids such third party contact.

18. The statement that defendants "collect non-public personal information" about the consumer "From employers and others to verify information you have given to us" is misleading and deceptive in violation of the FDCPA, 15 U.S.C. §1692e and §1692e(5).

**COUNT I - FAIR DEBT COLLECTION PRACTICES ACT**

19. Plaintiff repeats the allegations contained above as if the same were here set forth at length.

20. The Defendants, by sending a collection notice to Plaintiff which makes false, deceptive, or misleading representations or statements in connection with the collection of consumer debt, violate the FDCPA. 15 U.S.C. §§ 1692e and 1692e(5).

**WHEREFORE**, Plaintiff Tamara Smith demands judgment against Defendants NCO Financial Services, Inc. and Genesis Financial Solutions, Inc. for:

- (a) Damages;
- (b) Attorney's fees and costs;
- (c) Such other and further relief as the Court shall deem just and proper.

**V. DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury as to all issues so triable.

Respectfully submitted:

Date: 12/03/08

/s/ Theodore E. Lorenz (TEL5114)

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